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PTO/SB/21 (02-04)

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|---|----------------------|------------------------|--------------|
| TRANSMITTAL FORM (to be used for all correspondence after initial filing) | Application Number | 10/801,259 | |
| | Filing Date | March 15, 2004 | |
| | First Named Inventor | BERTHON-JONES | |
| | Art Unit | 3743 | |
| | Examiner Name | LEWIS, Kim M | |
| Total Number of Pages in This Submission | 29 | Attorney Docket Number | 3869-013 US6 |

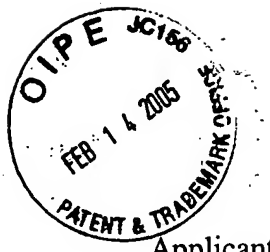
| ENCLOSURES (Check all that apply) | | |
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| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - IDS Statement - in duplicate - Return Receipt Postcard |
| <div>Remarks</div> | | |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT | |
|--|---|
| Firm or Individual name | Allen I. Rubenstein, Reg. 27,673 GOTTLIEB, RACKMAN & REISMAN, PC |
| Signature | |
| Date | February 10, 2005 |

| CERTIFICATE OF TRANSMISSION/MAILING | | | |
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| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. | | | |
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3869/013 US6

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : BERTHON-JONES, Michael
Serial No. : 10/801,259
Filed : March 15, 2004
Art Group Unit : 3743
Examiner : LEWIS, Kim M
Title : METHOD AND APPARATUS FOR DETERMINING
INSTANTANEOUS INSPIRED VOLUME OF A
SUBJECT DURING VENTILATORY ASSISTANCE

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendments
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir;

Enclosed is the Information Disclosure Statement, containing references that may be pertinent to the prosecution of this matter. Copies of the references cited are not required to be provided in accordance with 37 C.F.R. § 1.98(d) since all of the patents listed and Non-patent literature have been previously cited or submitted in US Patent 6,532,957 which this application claims priority pursuant to 35 U.S.C. § 120 and 37 C.F.R. § 1.98(d).

It is respectfully requested that the cited documents be considered and that the enclosed copy of Information Disclosure Statement Form be initialed by the Examiner to indicate such consideration and a copy thereof returned to applicant.

Pursuant to 37 C.F.R. § 1.97 (g) and (h), the submission of this Information Disclosure Statement is not to be construed as a representation that a search has been made and is not to be construed as an admission that the information cited in this statement is material to patentability.

Although no fee is deemed required, the Commissioner is authorized to use Deposit Account No. 07-1730 for any fees that may be required. A duplicate copy of this letter is enclosed for that purpose.

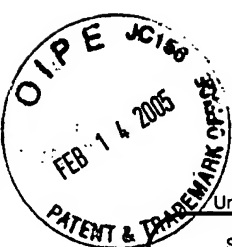
Respectfully submitted,

GOTTLIEB, RACKMAN & REISMAN, PC
Attorney for Applicant
270 Madison Avenue, 8th Floor
New York, NY 10016
Tel: (212) 684-3900/Fax: (212) 684-3999

A handwritten signature in black ink, appearing to read "Allen Rubenstein". The signature is fluid and cursive, with the first name "Allen" and last name "Rubenstein" clearly distinguishable.

Allen I. Rubenstein
Reg. No. 27,673

Dated: February 10, 2005
New York, NY



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| Examiner Name | LEWIS, Kim M |
| Attorney Docket Number | 3869/013 US6 |

Sheet 1 of 24

U. S. PATENT DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Document Number | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
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| First Named Inventor | BERTHON-JONES, Micha |
| Art Unit | 3743 |
| Examiner Name | LEWIS, Kim M |
| Attorney Docket Number | 3869/013 US6 |

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of

24

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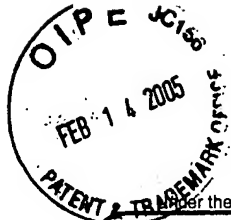
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| Examiner Name | LEWIS, Kim M |
| Attorney Docket Number | 3869/013 US6 |

Sheet **3** of **24**

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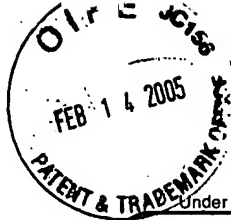
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| | | Number-Kind Code ² (if known) | | | |
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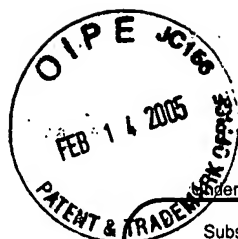
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| First Named Inventor | BERTHON-JONES, Micha |
| Art Unit | 3743 |
| Examiner Name | LEWIS, Kim M |
| Attorney Docket Number | 3869/013 US6 |

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| Examiner Name | LEWIS, Kim M |
| Attorney Docket Number | 3869/013 US6 |

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| Examiner Name | LEWIS, Kim M |
| Attorney Docket Number | 3869/013 US6 |

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STATEMENT BY APPLICANT**

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|------------------------|----------------------|
| Application Number | 10/801,259 |
| Filing Date | March 15, 2004 |
| First Named Inventor | BERTHON-JONES, Micha |
| Art Unit | 3743 |
| Examiner Name | LEWIS, Kim M |
| Attorney Docket Number | 3869/013 US6 |

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| Examiner Initials* | Cite No. ¹ | Document Number | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear |
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| Art Unit | 3743 |
| Examiner Name | LEWIS, Kim M |
| Attorney Docket Number | 3869/013 US6 |

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| Examiner Name | LEWIS, Kim M |
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| Examiner Signature | | Date Considered | |
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¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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| Substitute for form 1449/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary) | | Complete if Known | |
| | | Application Number | 10/801,259 |
| | | Filing Date | March 15, 2004 |
| | | First Named Inventor | BERTHON-JONES, Micha |
| | | Art Unit | 3743 |
| | | Examiner Name | LEWIS, Kim M |
| Sheet 18 | of 24 | Attorney Docket Number | 3869/013 US6 |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|-----------------------|---|----------------|
| Examiner Initials* | Cite No. ¹ | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ² |
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| | | DPAP; Breath, by breath, by breath. | |

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| Examiner Signature | Date Considered |
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| | | Application Number | 10/801,259 |
| | | Filing Date | March 15, 2004 |
| | | First Named Inventor | BERTHON-JONES, Micha |
| | | Art Unit | 3743 |
| | | Examiner Name | LEWIS, Kim M |
| | | Attorney Docket Number | 3869/013 US6 |
| Sheet | 19 | of | 24 |

| NON PATENT LITERATURE DOCUMENTS | | | |
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| Examiner Initials* | Cite No. ¹ | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published. | T ² |
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| Examiner Signature | | Date Considered | |
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| Art Unit | 3743 |
| Examiner Name | LEWIS, Kim M |
| Attorney Docket Number | 3869/013 US6 |

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| Sheet | 21 | of | 24 |
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U. S. PATENT DOCUMENTS

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FOREIGN PATENT DOCUMENTS

| Examiner Initials* | Cite No. ¹ | Foreign Patent Document | Publication Date | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear | T ² |
|--------------------|-----------------------|--|------------------|---|---|----------------|
| | | Country Code ³ Number ⁴ Kind Code ⁵ (# known) | MM-DD-YYYY | | | |
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U.S. DEPARTMENT OF COMMERCE
(Rev. 2-32) PATENT AND TRADEMARK OFFICE

ATTORNEY DOCKET NO.
 3869/013 US6

SERIAL NO. 10/801,259
Filing Date 03/15/2004

**INFORMATION DISCLOSURE
 STATEMENT BY APPLICANT**

(Use several sheets if necessary)

First Named Inventor BERTHON-JONES, Michael

Examiner Name LEWIS, Kim M

Art Unit 3743

FOREIGN PATENT DOCUMENTS

| Examiner Initials* | Cite No. | DOCUMENT NUMBER | DATE | COUNTRY | CLASS | SUBCLASS | TRANSLATION | |
|-----------------------|-------------|-----------------|---------|---------|-------|----------|-------------|----|
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(Rev. 2-32) PATENT AND TRADEMARK OFFICEATTORNEY DOCKET NO.
3869/013 US6SERIAL NO. 10/801,259
Filing Date 03/15/2004INFORMATION DISCLOSURE
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(Use several sheets if necessary)

First Named Inventor BERTHON-JONES, Michael

Examiner Name LEWIS, Kim M

Art Unit 3743

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| | First Named Inventor BERTHON-JONES, Michael | |
| | Examiner Name LEWIS, Kim M | Art Unit 3743 |

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